

**United States Bankruptcy Court
For the District of Minnesota**

In Re:

William Earl Crane

Debtor

Case No. 04-33614
RESPONSE TO TRUSTEE
OBJECTION TO CONFIRMATION
OF PLAN AND MOTION TO
DISMISS

TO: All parties entitled to notice pursuant to LOCAL RULE 9013-3

1. William Earl Crane, ("Debtor"), by and through the undersigned counsel, responds to the Standing Chapter 13 Trustee's objection to plan confirmation and motion to dismiss.
2. A hearing on this matter will be held at 10:30 a.m. on October 28, 2004 in Courtroom 228B, U.S. Courthouse, 316 North Robert Street, St.Paul Minnesota or as soon thereafter as counsel may be heard.
3. In response to the Turstee's Renewed Objection to Confirmation the debtor filed an Amended Chapter 13 plan dated October 15, 2004. The plan provides for payments of \$1600 per mont for 1 month, then 59 additional payments of \$2800 per month for a total contribution of \$166,800..00.
4. In response to Trustee's Objection that Debtor has proposed to continue to pay student loans during the pendency of the plan, Debtor has amended Schedule J to exclude direct student loan payments, and to include Student Loans in the General Unsecured Creditors.
5. Due to the claims bar date for general unsecured creditors expiring on October 12, 2004, Debtor has filed proof of claims for student loan debts pursuant to Rule 3004.
6. In response to Trustee's Objection that Debtor has an excessive automobile lease payment in the amount of \$480 per month the Debtor states as follows:

Debtor is leasing a 2004 Chevy Silverado pick-up truck. Debtor's self-employment involves pick-up and delivery of packaging film (weighing 500-1000lbs) every two weeks. Pick up and delivery involves travel to and from the plant at Chippewa Falls Wisconsin and St.Cloud (Rice) Minnesota and a trip every 3 months to Clinton Missouri.

In November of 2003, Debtor went to Stillwater Motors looking for a dependable vehicle that could perform these duties and due to Debtor's credit problems, he was offered the current lease with payments of \$480 per month. Debtor contends that lease payments of \$480 per month for vehicle expenses that are integral to his business is not excessive or unreasonable.

7. In response to Trustee's objection that Debtor's insistence on continuing to pay a monthly mortgage expense of \$3,330.00 is excessive, the Debtor states as follows:

Debtor and wife purchased their home in 1994 at a time when Debtor was doing very well financially, and paying all taxes and student loans. In 1994, Debtor was employed by James River Corporation as a sales manager and was earning approximately \$100,000.00 per year. In 1996 James River Corporation sold Debtor's division. Debtor found a job with C & H Packaging in Merrill Wisconsin as general manager earning approximately \$130,000.00 per year. Again he continued to pay all tax liabilities and student loans in a timely fashion. In August of 1998 Debtor lost his job with Merrill and started his own business. In 1999, Debtor's own business was only able to generate \$60,000.00 of income, less than half of his income with Merrill. It is as a result of his job loss that Debtor incurred tax liabilities as he was unable to pay his tax liabilities on a timely basis. Debtor has steadily improved his business and is now able to propose a Chapter 13 Plan to repay his delinquent tax obligations. An additional financial difficulty that Debtor has experienced is that debtor's non-filing spouse has had major medical expenses due to deep vein thrombosis and has not been able to work. Debtor has paid out over \$27,000.00 for medical expenses for his wife.

Debtor's proposed Plan is a good faith attempt to pay his tax obligations and catch up on his mortgage obligation now that his business is improving and capable of doing so.

8. In response to Trustee's objection that Debtor has "failed to pay his federal and state tax obligations over a number of years, and according to Schedule F, incurred a large student loan obligation while failing to do so." The Debtor states as follows:

As stated above, Debtor had income of over \$100,000.00 per year during the period of 1994 to 1998. The student loans were incurred for the benefit of Debtor's daughters, Lori and Dawn. Debtors daughter Lori graduated from college in 1997, thus all student loans incurred for her benefit were prior to the downturn in Debtor's income. Debtor's other daughter graduated from college in 1993 and thus was also years prior to Debtor's financial difficulties. Trustee's accusation that Debtor "incurred large student loan obligations" while failing to pay state and federal tax obligations is not factual.

9. In response to Trustee's alternative contention that Debtor has not shown that the proposed Chapter 13 Plan is feasible, Debtor states as follows:

Debtor has made the payments currently due pursuant to the plan. Debtor is not always able to pay monthly Trustee payments in the month they are due as a result of being at the mercy of his vendors, but Debtor is able to pay the proposed monthly payment with minimal delay. Debtor's business continues to improve and Debtor continues to work on new contracts to expand his business

and increase his income. Debtor's income has continued to increase over the past 4 years and Debtor has every expectation that the trend will continue.

10. Debtor requests the opportunity to testify more fully and in detail with regard to the matters alleged in the Trustee's motion.

WHEREFORE, Debtor requests entry of an Order as follows:

- a. Granting Confirmation of the Debtor's Plan;
- b. In the alternative, scheduling this matter for an evidentiary hearing to allow Debtor to make a more detailed and more complete presentation to the Court as to the merits of Debtor's Plan.
- c. Granting such other and further relief the Court deems equitable and just.

Dated: October 18, 2004.

PILETICH AND SKOKAN PA

/e/ Urosh Piletich
Urosh Piletich #027849X
Attorney for Debtor
1675 So Greeley Street
Suite 100
Stillwater MN 55082

VERIFICATION

I, William E Crane, Debtor, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: October 18, 2004

/e/ William E Crane

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Response and Amended Schedule I and J was served by U.S. Mail to the the following parties in interest at the addresses as forth below on 10/27/04:

Via Facsimile 612-338-4529
Jazmine Z Keller
Chapter 13 Standing Trustee
310 Plymouth Building
12 S 6th Street
Minneapolis MN 55402

United States Trustee
1015 US Courthouse
300 South Fourth Street
Minneapolis MN 55415

and all the parties listed on the attached Matrix

DATED this __27th__ day of __October__ 2004

PILETICH and SKOKAN P.A.

/e/ Urosh Piletich

Urosh Piletich, Attorney for Debtor(s)

POST OFFICE ADDRESS:

PILETICH and SKOKAN P.A.
1675 SOUTH GREELEY STREET
SUITE 100
STILLWATER MN 55082
(651) 351-1975
FACSIMILE: 651-351-3975
MN State Bar No.: 027849X

**United States Bankruptcy Court
For the District of Minnesota**

In Re:

William Earl Crane

Debtor

Case No. 04-33614
Memorandum of Law

FACTS

The facts supporting the Debtors response to the Trustees objection are fully detailed in the accompanying Debtors Verified Motion.

LEGAL DISCUSSION

Pursuant to 11 U.S.C. section 1325(b)(1), a Debtor must contribute all of his disposable income to payments under a proposed plan of reorganization. The Debtors expenses must be objectively reasonable as required by 11 U.S.C. section 1325(2)(A).

The Debtor has proposed a plan in good faith. Debtors plan proposes to pay the trustee a total of \$166,800.00 over 60 months. Debtor proposes to pay unsecured nonpriority creditors \$8374.45. The Debtors proposed plan meets all legal requirements and proposes to pay creditors more than a Chapter 7 distribution.

The Trustee has made factually incorrect allegations to which Debtor requests the opportunity to respond in his defense. Debtor categorically denies that he was incurring student loan expenses while not paying tax liabilities. Debtor lost his job and had to start his own business while paying over \$20,000 for his wife's medical expenses. The Trustee's allegations with regard to these matters are incorrect. Debtor has made changes to accommodate the Trustee. Debtor has agreed to include student loan payments in the proposed plan thus that objection by the trustee has been accommodate. Debtor has a difference of opinion with Trustee as to the reasonableness of his living expenses. Debtor has a lease payment in the amount of \$480 per month which is reasonable and necessary for his continued business. Debtor has no other vehicle payment. Debtor additionally states that applicable Chapter 13 Bankruptcy law specifically allows him to cure his mortgage arrears on his homestead and to continue to reside and own the home where he and his ill wife have resided for 10 years, and that under Debtors particular circumstances such a mortgage expense is not inappropriate.

Lastly, Debtor has had a steady increase in his self-employed earnings and will be able to show the court in detail his recent accounts receivable and new orders which will allow him to complete the

proposed plan.

For the reasons stated herein, the Debtor respectfully requests that confirmation of the Debtors proposed Plan be granted, or in the alternative that this matter be set for an evidentiary hearing where Debtor will be allowed to fully detail his circumstances in support of confirmation of his proposed chapter 13 plan.

Respectfully submitted:

/e/ Urosh Piletich

PILETICH AND SKOKAN P.A.

Urosh Piletich 027849X

1675 So. Greeley Street Ste 100

Stillwater MN 55082

651-351-1975

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

William Earl Crane
Debtor(s).

SIGNATURE DECLARATION

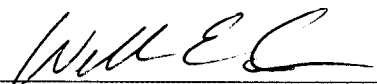
Case No. _____

- ☐ PETITION, SCHEDULES & STATEMENTS
☐ CHAPTER 13 PLAN
☐ SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION
☒ AMENDMENT TO PETITION, SCHEDULES & STATEMENTS
☒ MODIFIED CHAPTER 13 PLAN
☒ OTHER (Please describe: verified response to motion)

I [We], the undersigned debtor(s) or authorized representative of the debtor, *make the following declarations under penalty of perjury:*

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
- The information provided in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case is true and correct;
- **[individual debtors only]** If no Social Security Number is included in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a Social Security Number;
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed "Debtor Information Pages," if applicable; and
- **[corporate and partnership debtors only]** I have been authorized to file this petition on behalf of the debtor.

Date: October 18, 2004

X 

Signature of Debtor or Authorized Representative

X

Signature of Joint Debtor

William Earl Crane

Printed Name of Debtor or Authorized Representative

Printed Name of Joint Debtor

Form ERS 1 (Rev. 10/03)